

**Internal Revenue Service  
P.O. Box 2508, Room 7008  
Cincinnati, OH 45201**

**Department of the Treasury  
Exempt Organizations  
Rulings and Agreements**

Number: **200935039**  
Release Date: 8/28/2009

**Date:** June 4, 2009

**Employer Identification Number:**

**Contact Person - ID Number:**

**Contact Telephone Number**

**LEGEND**

**UIL#** 4945.04-04

B = Foundation

C = City, State

x = Award Scholarships or Grants totaling no more than \$amount annually

Dear \_\_\_\_\_ :

We have considered your request for advance approval of your loan and grant-making programs under section 4945 (g) (1) and 4945(g) (3) of the Internal Revenue Code, dated January 9, 2009.

Our records indicate that B was recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that B will operate a grant-making program that will make funds available for individual grants to allow high school and college students to advance their education by receiving educational opportunities that would otherwise be unavailable through standard loan programs and financial aid for education. There are three types of scholarships: study abroad scholarships, college graduate scholarships and stipends for institutional employees.

B expects to award up to 3 scholarships per year. It is anticipated that no more than x in total will be awarded annually to individuals. It is not anticipated that there will be renewals of grants. B will publicize the program through guidance counsel offices at local schools and financial aid offices at local colleges in or nearby C. Applications will be accepted through B board members. To apply, the individual will submit a complete biographical record and supporting material, including a report on their academic careers, a detailed statement of their training plans, a statement of their plans and commitments after the program; letters of reference (which include recommendations from instructors) and lists of publications. The applicant must also convince B of his or her financial need for the grant funds. There is a preliminary screening of all candidates by the Board President of B. The field will be generally narrowed to 1-2 candidates. Neither employees of B nor disqualified persons are eligible for grants.

The selection criteria will be past academic performance and intended use of funds. Although financial need may be a basis for selecting one recipient over a competing recipient for limited resources, it will not be the principal basis for selection. Applicants shall not be requested to provide detailed financial records supporting their application.

Scholarships will be awarded by the Scholarship Committee, composed exclusively of the directors of B, to individuals selected from students of applicable qualification. Family

members of the Committee and substantial contributors are disqualified from receiving scholarship funds.

The terms and conditions of each grant shall be contained in a letter sent to each recipient of such grant. The recipient is required to communicate his or her acceptance thereof by a letter in writing to B. Terms and conditions include: specific purpose of the grant, its duration, the total amount of the grant, requirements for narrative reports, including due dates for such reports.

B will arrange to receive a report of the grantee's courses taken and grades received in each academic period. Such a report must be verified by the educational institution attended by the grantee. Where study at an institution or travel abroad does not involve the taking of courses but the preparation of research papers or projects, B will require a brief report on the progress of the paper or project at least once a year. Such a report must be approved by a faculty member supervising the grantee or by another appropriate official of the sponsoring institution. Upon completion of a grantee's study at an educational institution, a final report shall also be obtained.

B may not consider it necessary to obtain the foregoing reports if the following conditions are met: First, the grant is a scholarship or fellowship subject to the provisions of section 117(a) of the Internal Revenue Code and is to be used for study at an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on. Second, B pays the scholarship or fellowship directly to the educational institution. Third, the educational institution agrees to use the grant funds to defray the recipient's expenses or pay funds to the recipient only if he is enrolled at the educational institution and his standing at such institution is consistent with the purposes and conditions of the grant.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Revenue Ruling 77-434, 1977-434, 1977-2 C.B.420, provides that long-term, low interest loans by private foundations for educational purposes may be considered grants within the meaning of section 4945(g)(3) of the Code.

Based on the information submitted and assuming your scholarship and loan programs will be conducted as proposed with objectivity and nondiscrimination in awarding grants and loans, we determined that your procedures in awarding scholarship grants and educational loans comply with the requirements of section 4945(g)(1) and 4945(g)(3) of the Code and that scholarships and loans granted according to these procedures will not be "taxable expenditures" within the meaning of section 4945(d)(3).

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants or loans will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your grant-making procedures is a one-time approval of your system standards and procedures that will result in grants and loans which meet the requirements of section 4945(g)(1) and 4945(g)(3) of the Code. This determination only covers the grant programs described above. Thus, approval shall apply to succeeding grant and loan programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

We have not considered whether grants made under your procedures are excludable from the gross income of recipients under section 117(a) of the Code.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:  
Sanitized copy of this letter & Notice 437